UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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JOSEPH F. KENNEDY,

Plaintiff,

- against -

UNITED STATES OF AMERICA,

Defendant.

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NOT FOR PRINT OR
ELECTRONIC PUBLICATION
MEMORANDUM & ORDER
12-CV-05105 (CBA)

AMON, Chief United States District Judge.

Plaintiff Joseph F. Kennedy, proceeding pro se, commenced this action on October 10, 2012. (DE #1.) On December 14, 2012, he filed an Amended Complaint, (DE #4), and on December 18, 2012, he filed a Second Amended Complaint. (Dkt Entry 5). The Court grants Kennedy's request to proceed in forma pauperis pursuant to 28 U.S.C. § 1915 solely for purposes of this Order, and dismisses the action for the reasons stated below.

BACKGROUND

Kennedy's complaint, amended complaint and second amended complaint are rambling, nonsensical narratives. Kennedy states, inter alia, that he is the son of Jacqueline Kennedy Onassis and President John F. Kennedy and that

> Only six millions [sic] people all over the world are voting to elect the presedent [sic] of USA, all other votes not count. This criminal secret organization has secret code name: "Holocaust Jewish" of "Zhidy Masony" from Russian Language. . . .
>
> All "Holocaust Jews" and "H.J." Poppets speak secret code language (not bible); Bloomberg: "No Big Coda, No Solt," Sand[u]sky never touched any boys, he is not guilty. Romney: "47% people" he was talking about 9-11's 47 story building's collapse. . . . Putin: "He recognize only cercumcised [sic], come to Moscow I will cercumcise [sic] by myself and nothing will grow up." Putin and Bush cooking "Jewish bloody bread" (Syriya) [sic]. . . .

(Compl. at 1-2.)

Kennedy's amended complaint adds that

> "[a]ccording to Johova Witnesses we have Sons of God on the planets because "Holocaust Jews" got also secret code names "Children" and "USA citizen." When Plaintiff did not open non-profit company "Jewish Family and Children Services" with Department of Commerce permition [sic] with tax I.D. number the Southfield city (MI) court Judge ruled to clouse [sic] my company by telling: "You cannot use name Children." According to "Children"s [sic] secret law the "USA citizens" cannot be Jailed.

(Am. Compl. at 2.)

Kennedy states that he filed a second amended complaint because

> when he filed first amendment complain[t] in the morning on December 14, 2000 [sic] in court room, same day in the morning "H.J." mafia killed 28 innocent people in the city of Newtown. Plaintiff believes Adam Lanza got more than one bullet in his body. He is innocent like nanny Ortega (see attachment). Exactly like Pl. wrote in the paragraph 4. of the first amendment complaint 18 people became new member of "Children." . . .
>
> "H J" will loose [sic] his "Child" status if will not pay 14% contribution from his income, Barak [sic] Obama always paying 14% to "King of morgue." "H.J." will loose [sic] status if he will singing like Pl. does P.M. Medvedev said: "I am throwing out from 'Pussy Riot'" singing. Coded information about Pl. Jewish never adding blood to matzo, this is code.

(2d Am. Compl. at 5.) Kennedy seeks $100,000 in damages.

STANDARD OF REVIEW

To avoid dismissal, a complaint must plead "enough facts to state a claim to relief that is plausible on its face." Bell Atl. Corp. v. Twombly, 550 U.S. 544, 570 (2007). A claim will be considered plausible on its face "when the plaintiff pleads factual content that allows the court to draw reasonable inference that the defendant is liable for the misconduct alleged." Ashcroft v. Iqbal, 556 U.S. 662, 678 (2009). Although "detailed factual allegations" are not required, "[a] pleading that offers 'labels and conclusions' or 'a formulaic recitation of the elements of a cause of action will not do." Id. (quoting Twombly, 550 U.S. at 555). Similarly, a complaint is

insufficient to state a claim "if it tenders 'naked assertion[s]' devoid of 'further factual enhancement.'" Id. (quoting Twombly, 550 U.S. at 557).

Pro se complaints are held to less stringent standards than pleadings drafted by attorneys, and the court must construe a pro se litigant's pleadings liberally and interpret it as raising the strongest arguments they suggest. Erickson v. Pardus, 551 U.S. 89, 94 (2007); see also Harris v. Mills, 572 F.3d 66, 72 (2d Cir. 2009). Nonetheless, under 28 U.S.C. § 1915(e)(2)(B), a district court shall dismiss an in forma pauperis action where it is satisfied that the action "(i) is frivolous or malicious; (ii) fails to state a claim on which relief may be granted; or (iii) seeks monetary relief against a defendant who is immune from such relief."

DISCUSSION

In Denton v. Hernandez, 504 U.S. 25 (1992), the Supreme Court noted that

> the in forma pauperis statute, unlike Rule 12(b)(6) [of the Federal Rules of Civil Procedure], "accords judges not only the authority to dismiss a claim based on an indisputably meritless legal theory, but also the unusual power to pierce the veil of the complaint's factual allegations and dismiss those claims whose factual contentions are clearly baseless.

Id. at 32 (quoting Neitzke v. Williams, 490 U.S. 319, 327 (1989)). "[A] finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible, whether or not there are judicially noticeable facts available to contradict them." Id at 33. The Supreme Court has further recognized that a complaint is frivolous when it "embraces not only the inarguable legal conclusion, but also the fanciful factual allegation." Neitzke v. Williams, 490 U.S. 319, 325 (1989).

The Court finds that Kennedy's pleadings are irrational and incredible. Kennedy's allegations, even under the very liberal reading given to pro se pleadings—and even if Kennedy himself believes them to be true—can only be described as delusional and fantastic. See Denton,

504 U.S. at 33. Since Kennedy's complaints are devoid of any basis in law or fact, defects which cannot be cured by another amendment, the Court dismisses this action as frivolous action.

CONCLUSION

Accordingly, the Court dismisses the action as frivolous pursuant to 28 U.S.C. § 1915(e)(2)(B)(I). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this Order would not be taken in good faith and therefore in forma pauperis status is denied for purpose of an appeal. Coppedge v. United States, 369 U.S. 438, 444-45 (1962).

SO ORDERED.

Dated: Brooklyn, New York
January 2, 2013

/S/ Chief Judge Carol Bagley Amon

Carol Bagley Amon
Chief United States District Judge